

**BUTTE-SILVER BOW LOCAL GOVERNMENT  
STUDY COMMISSION**

**Minutes of the Public Hearing**

**March 9, 2006**

**Butte-Silver Bow Courthouse, Third Floor Council Chambers**

**Meeting Date:** March 9, 2006

**Time:** 6:30 p.m.

**Place:** Butte-Silver Bow Courthouse, First Floor Conference Room

**Call to Order:** Chairman Bob Worley brought the meeting to order at 6:35 p.m. and called roll with the following results:

**Members Present:** Tony Bonney, Ristene Hall, Dave Palmer, Meg Sharp, Cindi Shaw, Northey Tretheway, Bob Worley and Shag Miller

**Excused Absences:** Wayne Harper

Bob Worley gave an introduction to everyone and explained how they have been meeting the last 15 months. They have interviewed a number of citizens and BSB employees, such as department heads, elected officials, Council of Commissioners and so forth.

Bob Worley addressed to the public that the handout did not illustrate the final draft of the charter. Bob Worley commented to the public that he would like them to ask questions that specifically relate to the charter. Bob Worley commented that they have come up with proposals on certain BSB departments. Bob Worley discussed the three major issues the Study Commission has voted on which were: to continue to have an elected Chief Executive, to continue to have an elected Sheriff, and continue to have 12 Council of Commissioners in BSB.

Northey Tretheway thanked the public for attending the public hearing especially with the Basketball Tournament that night. Northey explained that they, as a Study Commission did not intentionally plan for the hearing to be on the same night as the basketball game and they were trying to beat a deadline. Northey explained the format of each slide, which illustrated the original language above and the proposed language below that. Northey Tretheway pointed out that the proposed language changes have not been finalized and should be looked at conceptually. Northey commented that they don't anticipate too many changes but they might notice language that still needs to be revised.

Northey started the PowerPoint presentation.

**Slide 1.** Section 3.02 (d)-Organization. The language "Commissions" was changed to "Commissioners".

**Slide 2.** Section 3.03 (j)-Powers and Duties of The Council of Commissioners. They added the language, "as long as any change is done in accordance with state law."

**Slide 3.** Section 3.03 (l)-Powers and Duties of The Council of Commissioners. They added the proposed language, “The Council of Commissioners shall review, measure and publish the success of the goals established by the Chief Executive on an annual basis.” Northey commented further in the presentation they would see where that is covered more under the section that covers the governing of the Chief Executive.

Jean Rupert asked if it was the Council of Commissioners that decides the success of the Chief Executive?

Northey Tretheway replied at this point, they are trying to create an opportunity for them to work more closely together so the council would report on how successful the Chief Executive is in meeting his goals and objectives.

Cindi Shaw mentioned that they are trying to make the government more accountable.

**Slide 4.** Section 3.05 (d)-Council of Commissioners Procedure, Public Participation- They added the language, “If the Chief Executive cannot preside, the adopted rules of the Council of Commissioners shall govern. Phil Cable of 225 South Dakota, Butte, Montana, stated the Chief Executive is the executive branch of our government and the council is legislative. He wanted to know why the Chief Executive is presiding over the council? He stated the Study Commission has the Chief Executive presiding over legislature. Phil stated the Chief Executive also has veto power. He stated there is not a true separation of executive and legislative branches. If the charter states council shall elect a chair and vice-chair and compare numbers, to him that means the chair they elect should be the one that presides over council.

Northey Tretheway asked, in Congress who decides the tie in the Senate? The public speaker replied supposedly the Senator is the Vice President. He asked Northey if he has ever seen the Vice President chair a Senate? Northey replied no. Phil thought there needed to be a separation of branches. Northey clarified that he was under belief that there should not be a city Chief Executive on the council as far as one of the chairmanship and breaking tie votes. Phil replied, being mayor himself, the council requested that he be present every meeting to give a report.

Northey Tretheway commented part of what they have been discussing is the complexity of Butte-Silver Bow’s charter in comparison of those around the state. Northey commented that ours goes into a great amount of more detail and is a remnant of city-county consolidation that took place in the 1970’s. Northey believed there is difficulty comprehending and understanding where you cross the boundary of it being a legislative document versus a guiding document. Northey stated that they, as a Study Commission have taken into consideration public comments and implemented them into the charter. Northey further commented that they are also trying to simplify it.

**Slide 5.** Article IV, Chief Executive, Section 4.01. The language forfeit was changed to forfeited.

Northey commented if there was any phrase or language that changed in the charter, it has to be voted on.

**Slide 6.** Article IV, Chief Executive, Section 4.02 (c)(6)-They added the language, “at regular meetings”.

**Slide 7.** Section 4.02 (12)(i) They added the language, “The Chief Executive, in conjunction with the Council of Commissioners, shall establish annual “time phased” and measurable goals and objectives, which relate to improvements in meeting the following public needs: public safety, community livability, environmental quality, transportation systems, public infra-structure, economic development, BSB budget, recreation, and other agreed upon objectives that improve the health, welfare and economy of public service. (ii) “report quarterly, at a minimum, to the Council of Commissioners and to the public, the performance of the Chief Executive in meeting each one of these goals.

Northey Tretheway explained their intention is to create more of an interface with the public to get a better sense of the government’s performance and what they are doing. Northey commented, by providing goals and objectives no different than other entities that are striving to do better. They wanted to elaborate it in the charter to make sure they captured that the best they could.

Rick Foote of The Butte Weekly asked in reference to Section 4.02 (12) have the commissioners evaluated the proposed language for constitutionality?

Northey Tretheway replied they had not. Northey stated they met with the commissioners once to get a sense of where things are. They are going to meet with the commissioners again to review the language in Section 4.02 (12) and get their opinion.

Shag Miller commented that he voted as a minority on the proposed language in Section 4.02(12) of the charter. He stated it was not workable in the case of orthodox. Many people trust the approval of the function of an elected official. In regard to a department head, it could be rendered by HR policy. Shag stated that he agreed with Rick Foote that they should check the constitutionality of the proposed language. Shag stated he wanted the public to know how he feels about it.

Bob Worley addressed that any language they do propose to the people will be reviewed under law before being voted on.

Jean Rupert commented that the wording in Section 4.02 (12) bothered her because it states, “report quarterly, at a minimum, to the Council of Commissioners and to the public, the performance of the Chief Executive in meeting each one of these goals.” Jean commented that she also votes for all her council commissioners and she thought it should be reading as the government. Jean stated that looks like they are just after the Chief Executive and she thinks more people are involved in the government than just the Chief Executive.

Northey Tretheway replied that she made a good point. Northey stated they do want to make government more accountable. They did zero in on the Chief Executive but her point is well taken and they do need the same thing for council.

**Slide 8** Section 4.02 (13) The proposed language stated, “On an annual basis, and using local media to publish the following information: (i) A one-page summary of the BSB preliminary budget compared against the actual budget from the previous year. The Summary must include separate sources of funds (taxes, bonds, grants, royalties, interest, etc.) The uses of those funds (by department, division, etc.) and separated between labor, materials, other items and capital projects. (ii) A schedule of events leading to the approval of the budget and the available times and opportunities for public participation in the budget process.

Jeff Amerman, BSB Budget and Finance Director pointed out that they were talking about two different issues so they are not mutually exclusive. They would have to have the second part of Section 4.02 (13) replace the first section. The original language refers to the financial report, the annual audit, the CAFR, things that are required by state law. They have to do those reports on an annual basis. In the original language by code, they have to do that. Jeff stated that does not preclude the second part of the proposed language in Section 4.02 (13). Jeff clarified what they were trying to accomplish which was getting better and more understandable information out to the public. Jeff stated the problem is when they want a one-page summary with the detail that is requested, the font would be small and hard to read. Jeff thought they could come to a happy medium where they have enough detail providing useful information and summarized enough to where it is understandable. Jeff stated their concern is when they have the URA, TIFID, etc. and it gets condensed too far, you begin to lose the accuracy of it. It would be misleading. Jeff stated his sense of where the Study Commission is going with their proposed language is a really good thing. They want to get it summarized and out to the public in an understandable format.

Ristene Hall commented that is why they added that language because the budget is so complex that for the average person to open it up and look at it, they would not have a clue as to what government is doing. Ristene stated they wanted something that was in layman terms that the citizens of Butte could look at, compare the last year’s budget, and understand where the money is going.

Jeff Amerman replied that it is complex. Jeff commented with the wording in the proposed language, the only difficulty was getting the amount of detail summarized in one-page would be impossible. The second part is not exclusive of the first of the original language. That would actually be an add-on instead of a deletion.

Northey Tretheway asked if that first part is already in ordinance? Jeff Amerman replied that he was not sure if it was in the ordinance or just laid out in the charter. Jeff further stated, generally accepted Accounting principals dictate that they do that. Northey commented that it should be kept in mind that the charter guides state law and state law

trumps the charter. It was asked if there were any copies of the budget in the library? Jeff Amerman replied that there is at least one copy there.

Rick Foote of the Butte Weekly asked if Section 4.02 (13) has been evaluated for fiscal impact on the taxpayer? Bob Worley replied that they have looked into expense of publishing a one-page ad in the paper under local publications. As Jeff Amerman stated the Study Commission would like to see something reduced that is easy to understand and available; Something that will meet the requests of people to answer their questions on where the money is being spent and coming from.

**Slide 9.** 4.02(13)(c) The original language had been deleted. Northey Tretheway commented the reason for deleting that section was that it could be done by ordinance. Bob Worley commented that they, as a Study Commission felt if the Chief Executive needed an Administrative Aide, he/she could go back to the Council of Commissioners and have appointment done through the Council of Commissioners, Human Resource Department or contract.

Jean Rupert explained the reason they, the previous Study Commission, put that language in was so the Chief Executive would have someone he/she could work with and be able to get more done.

Bob Worley replied that is not impossible but they took it out of the charter as an appointed position by the Chief Executive. Bob Worley explained that it is still available to the Chief Executive but through the Council of Commissioners.

Jean Rupert replied that she did not think she would want to run for Chief Executive in BSB because if she wanted to get anything done she would have to go to the Council of Commissioners to be able to succeed at anything because she has to get permission for everything she does. Jean asked if they are going to do it that way, why elect a Chief Executive who does not have anything to offer the citizens?

Northey Tretheway asked in terms of hiring? Jean replied hiring...they are taking everything away from the Chief Executive. Northey Tretheway replied that they are not taking anything away other than this one section. Northey explained part of the discussion, which will lead into later parts of this section, things that go on with hiring and firing. There are consequences for actions the Chief Executive takes that are felt by the community.

Jean replied they did not sue the Chief Executive. They go after or through the commissioners. Jean asked if they have heard of the Stella Awards. Rick Foote stated to Jean that they sued the Chief Executive and BSB. Jean explained Stella was the woman that had hot coffee poured on her from the McDonalds lawsuit and won. They have all these awards such as a person that tried to steal hubcaps from a vehicle and the owner of the vehicle did not know the person was doing this and ran over his/her hand. The person who got his/her hand ran over sued and won. Jean asked if you get it so tight that the

Chief Executive can't breathe how does he/she move forward if everything has to be brought forth to the Council of Commissioners for their approval?

Northey Tretheway replied there are many other communities that don't have a Chief Executive. They have a City Manager and the Council of Commissioners. BSB is keeping the Chief Executive. What they are trying to do is not get BSB tied up again in another situation where it might end up liable for something it does not want to be liable for.

Jean Rupert replied that is why she brought up the Stella Awards because you cannot tighten it up so much that you are not going to be sued but that the government can grow. There needs to be some flexibility so it can move forward.

Northey Tretheway replied it is a good point and they are trying to get that balance so there is not another situation where BSB has a suit that is pressing on the taxpayers. Northey commented that he did not think anyone appreciates the fact that they are paying out a million dollars plus. It seems every few years back and a few years back from that there are lawsuits. Lawsuits that drain Butte-Silver Bow's ability to move forward as a community due to having to continually deal with those liabilities. Northey continued the state has a lot ...the fact is the McMillan suit that occurred in 1997 tied their hands. When someone hires in BSB that person is there for a long time. You can't rid of him/her. If they are going to get rid of him/her they will have to do it the right way or BSB will be paying money out again.

Jean Rupert asked why are they not looking at that? Northey Tretheway replied that they are. Bob Worley commented that would be covered under the Human Resource section.

Dave Palmer commented that Section deals with the Administrative Aide so if you were running for Chief Executive, you would get elected and appoint an Administrative Aide. Dave feels that if people elect someone to be Chief Executive, he/she should be Chief Executive and do the job. Dave did not think BSB was ready to have an Assistant Chief Executive do the Chief Executive's job. With the labor laws in the State of Montana, once he/she has their time in, that person is there for good. When the next Chief Executive wants to come along and appoint an Administrative Aide, then there are two of them doing the same job. Dave does not think BSB is big enough and does not think we need that many Administrative Aides. He thinks if someone gets elected to be Chief Executive, he/she can be Chief Executive and do the whole job him/herself.

Bob Worley commented looking back at the last two-three terms of Chief Executives, the Administrative Aides or Secretaries, the Chief Executive, next Chief Executive or the previous Chief Executive, is scrambling to find a job for that Administrative Assistant before he/she leaves. That person will still hold a position somewhere in government. They would like to see that changed so if the Chief Executive wanted a different Administrative Aide that could be done and that is the Study Commission's whole thought behind that.

Dave Palmer commented an Administrative Aide and Secretary are not the same position.

**Slide 10.** Section 4.02 (13) The proposed language stated, “The Chief Executive shall have the power to appoint, when a vacancy exists, and the power to terminate, with the advice and consent of the Council of Commissioners, all non-elected department heads in accordance with state law.”

Mary McMahon of the BSB Clerk and Recorder’s Office suggested they should include in the language with the consent of the Human Resource Department, County Attorney and Council of Commissioners.

Northey Tretheway replied they had that language in there and it is stated further in the charter that any hiring or firing in BSB will follow along with the Human Resource Department policies. The other language she is suggesting is to include the County Attorney.

Bob Worley stated they have met with a local labor law attorney and are comfortable with the proposed language. Bob commented again that they want to avoid lawsuits relating to the elimination of BSB employees. Bob Worley stated “just cause” is still a way to eliminate an employee. Bob Worley mentioned “at will” employment and how the McMillan case eliminated that. Montana is the only state that does not have “at will” employment.

Jean Rupert stated she did not understand and would have liked Bob McCarthy present so he could answer the question. Jean asked how the Governor could appoint through the fact that it is political. Since we are not political, we do not elect commissioners as a Republican or Democrat. Jean stated she did not understand that because if it was political, our Governor is a Democrat and our Lieutenant Governor is Republican.

Rick Foote of the Butte Weekly replied because they are not state employees.

Dave Palmer stated the state constitution spells out that our Governor has a right to do that. Jean Rupert asked and our charter?

Dave Palmer stated it is in the State Constitution and you would have to amend the constitution.

Shag Miller commented in the old constitution the Lieutenant Governor ran on his own and often you would have a Democrat Governor and a Republican Lieutenant Governor or vice versa. In the 1972 constitution, they changed that.

Jean Rupert replied that she thought there was a reason they could not follow that if they put it in the charter.

Shag Miller replied they did in the original charter. They did check with Don Robinson and Bob McCarthy that department heads could be hired by contract such as

Superintendent of Schools and business manager of School District #1. Shag Miller mentioned the Director of Finance and Budget being hired by contract. He gave an example of him/her being hired under a two-year contract with an evergreen clause at the end of 90 days. Shag mentioned that is something they have looked at and it could be done with the approval of the Council of Commissioners.

Northey Tretheway commented that the proposed language was written conceptually and will probably change again. Northey referred to Jean's comment regarding the one reason why they cannot do that and thought it was because of supremacy clause. The U.S. laws govern the State of Montana and cities. As you move down the line, the state laws govern BSB. If you look at what Study Commissions normally do, they don't normally get into the minutia of detail like they do here because BSB has a charter that is extremely complex compared to a lot of others. Northey stated what they normally do is select what form and structure of government they want but they don't get into the operating parameters of a Chief Executive hiring and firing; That is covered by other ordinances and laws of the State of Montana. They do have to cover that in the charter if they are going to continue with having a complex charter instead of simplifying it.

Ron T. Francesco commented on behalf of growth, the companies come here and put people in business and obviously the whole idea behind a business is to be honest with the public and do things fairly. Ron asked why should an employer want to hire people and keep people...he heard a comment earlier saying you could not get rid of them. He thinks a three-strike system is an easy system. Ron stated being an employer himself and employing people, he has had a lot of people that could have been fired. He has had employees vandalize from him and all kinds of different problems. Under the three-strike system you are able to tell those people, you're here to make a living and he is there to help him/her the best he can but in order to have a successful business both people have to be on the same wave length. You need to work together as a team, as a system playing his/her role in the work place. Ron explained under the three-strike system, you would verbally tell a person what he/she did wrong. If they continue, he/she gets a second strike against him/her. The third strike, he/she would be let go. If an employer is losing money from an employee's poor work performance, why should you keep that person around?

Northey Tretheway replied that the Study Commission would agree with him 100%. In fact, you don't have to keep a problem employee but what you had better put in place is a system that says this is strike one, this is what they are expecting from the employee. If that employee continues to perform badly, strike two and so forth. You have to have a system in place that allows you to systematically bring an employee through that process. You cannot just tell an employee that they are gone.

Bob Worley mentioned they had a citizen that stated the Chief Executive should have the authority to hire/fire at will. Bob Worley made reference to an e-mail from Bob McCarthy that stated, authority as set forth in 1976 charter provisions on termination of employees by the Chief Executive. The Montana Supreme Court decided in 1997 that that is no longer permissible in State of Montana. "Employment at will" was eliminated in the State of Montana. McMillan vs. State was recognized by U.S. magistrate, Carolyn



Ostby in the combined decisions of J.T Johnston and Mike Shea of BSB and Paul Babb that is the basis of a one million plus settlement in BSB. The significance of all this the local voters do not have any say in the matters involved in labor, including collective bargaining, wrongful discharge, worker's and unemployment compensation, etc. in the State of Montana. This is exclusively within the province of the legislature as our number one areas including regulation of natural resources, designation of felony crime, regulation of alcohol beverages, etc. Bob Worley commented they would like to see the employment issue in the charter but state law does not allow it. The only way it can be changed is for the public to go before the legislatures in the State of Montana.

Jean Rupert asked the state is allowed to, as governor, appoint but the state says local government can't? Bob Worley replied exactly. There is nothing they can do at that level within the charter of BSB. Bob stated this is state law and if it is going to be changed, it has to be changed at the state level.

Northey Tretheway commented state law may change and that is one of the reasons they have been looking at a simplified charter. They could spend all these months on the charter, they get the language just right and then state law changes.

Northey Tretheway commented again that the proposed language will probably change again but it will give the public an idea of what they have been discussing on each section.

Jean asked who follows that up?

Mike Kerns, a member of the Council of Commissioners, did not think the proposed language needed to have a lot of words over and above what was already presented. Mike stated he has no problem with the council taking on a portion of that responsibility. Mike stated they need to understand if the council takes that responsibility on all of those discussions leading to termination would have to be closed meetings. The public would not have access to it because they cannot discuss personnel issues if the person being terminated does not want the press or the public in that meeting. He is not opposed to that but realize that would not be public information other than the action that the council would take and he would always hope would have the advice of County Attorney before that action would be taken. None of that would come out in the public unless the person being terminated would waive his/her right to privacy.

**Slide 11.** Section 5.02 (a)(2) added the proposed language, "local ordinance and this charter"

Mary McMahon commented the only requirement under Montana Code for someone to run under office is that they be a registered voter other than the County Attorney and Superintendent of Schools.

Northey Tretheway commented if you look at state law and some of the requirements that are spelled out in the law suggest you should have some sort of experience in those areas

before you accept those duties. You are not precluded from accepting them but it does state in the law very specific duties that are required.

Jean Rupert commented about the Coroner, it could be anybody. You would think they would need to have some kind of experience.

Lori Maloney commented the local elected offices throughout the statewide associations all have certification programs in place. Lori stated you have your first 2 years in office to comply. Qualifications that are required are taught through the inter-workings of the associations.

Northey Tretheway replied so it is on-the-job training.

**Slide 12.** Section 5.05 (b)(1) Law Enforcement Department-Proposed language was to delete the following language, “That the Sheriff shall have the powers therein given to the Mayor in a mayor-council form of municipal government, the Council of commissioners shall have the powers of the city council, and the Clerk and Recorder shall have the powers of the city clerk”

Northey Tretheway asked Jean Rupert if she could explain the meaning of the language they proposed to remove from the charter in Section 5.05.

Jean Rupert explained BSB had a sheriff and a police officer and when they combined they tried to clarify titles. They would no longer be called Police Chief. They would be called Sheriff.

Northey Tretheway replied it was another remnant of consolidation.

**Slide 13.** 5.05(d) Law Enforcement Department-replaced the language, “shall not be” with “shall be”. Replaced the language, “or” with “and” and replaced the language, “continued” with “confirmed”.

Mike Kerns asked that they would get with the County Attorney for clarification on the language, “Sheriff”. Mike Kerns thinks they need to take the word “Sheriff” out of all the language because he believes the correct title is Chief of Law Enforcement. Mike Kerns stated they need to do the same with the Fire Chief since he is no longer called that. Mike Kerns commented that the police officers are bargaining under the old blue uniform city police things. It was the intent that “Sheriff” not be used anymore. It allows for some things that are not considered as the Sheriff. Mike Kerns did not think the Sheriff could handle municipal police officers. They are not deputies.

Northey Tretheway commented they had someone present at one of their meetings that mentioned similar issues on the Fire Chief.

Ristene Hall asked Mike, does that mean in the list of elected officers, instead of calling it Sheriff, they should call it Chief of Law Enforcement?

Mike Kerns replied they get with Bob McCarthy. Mike commented that the citizens recognize him in terms of being the Sheriff but in true terms he thinks the title is Chief of Law Enforcement. A lot of the policemen belong to the municipal police union. Mike stated normally the Sheriff only handles deputies and to solve that confusion... and most sheriffs have a pension and fall under a different thing than this office. Mike commented it would still be an elected position and everything else.

Meg Sharp asked if every reference in the charter should use Chief of Law Enforcement? Mike Kerns replied with the concurrence of the County Attorney.

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Rick Foote commented the Undersheriff is appointed by the Sheriff and answerable to the Sheriff. It is a stand-alone position. That provides that the Undersheriff is not a stand-alone position.

Northey Tretheway replied that they need to have all of it reviewed.

Mike Kerns commented it is not just a matter of what you call the person it is a matter of how it is defined. Mike stated if it is defined a certain way, perhaps the ordinance that created the change in name is not valid.

Northey commented that the ordinances might have changed but they may not have been in strict concert with what the state says you can do. That is another problem with the charter due to its complexity.

Jean Rupert asked the Clerk and Recorder if she appoints her Chief of Deputy? The Sheriff appoints an Undersheriff and that is why they, the previous Study Commission, put in the charter that the Chief Executive is able to appoint someone.

**Slide 14.** Section 7.02 (b) Public Works-the original language in that section was deleted.

Jean Rupert commented the original charter was to combine city-county government to make things more efficient. She just wanted to point out why that was in there.

**Slide 15.** Section 7.02 (a) Public Works-The proposed language, "There shall be a Public Works Dept."

Northey Tretheway commented that they did not feel there was a need to define everything in there.

Northey Tretheway replied they are not eliminating the Public Works Director. They are eliminating the language in the charter that prescribes everything the government does.

Tim Rodgers read from the charter in Section 7.02 (b) “the Chief Executive shall appoint, with the consent of the Council of Commissioners, a Public Works Director...” They have deleted that whole section.

Bob Worley referred him to Section 4.02, which stated, “the Chief Executive shall appoint with the advice and consent of the Council of Commissioners all non-elected department heads. Bob explained that is where the Director of Public Works would apply. Bob stated the Study Commission deleted the language in Section 7.02 (b) because they felt it was a duplication.

Tony Bonney further commented it was their idea to eliminate the language, “serve at the pleasure” of the Chief Executive.

John Sorich asked them why do they want to eliminate all the definitions of what each department does?

Northey Tretheway replied they don’t do the same thing with every position in BSB. They don’t define everything the Finance and Budget Department does. They don’t identify everything that someone else does. In this case, the charter defined it to a “T”. It was probably due to the consolidation of government. Northey stated the charter should not be so complex to every position that goes on in BSB. Northey thought that should be covered somewhere else to maintain that flexibility.

Tony Bonney commented part of the reason behind that was to give government some flexibility...any time they change something, anything in charter has to be voted on by the public. Tony stated by eliminating exactly what they do it gives government the freedom and flexibility to move and change without changing the charter.

Rick Foote disagreed with Tony Bonney in the discussions with Bob McCarthy as late as last night. Rick stated the Council of Commissioners does have the authority and power to amend the charter without a vote of the people. Rick stated to further comment about the definitions of the Public Works Department, he believes the definitions and responsibilities that are required should be spelled out. Rick stated that he has been around long enough to see battles that have transpired. He believes if they eliminate those definitions it would open that you really don’t want opened in terms of turf. Governments are very prone to turf battles. He believes it might be in best interest of taxpayers as well as the best interest of the Study Commission to take a look at Section 7.02 (a) and make sure that the responsibilities of the department are fully covered in the charter. Rick Foote gave an example of the past Public Works Director, Jim Johnston and one of his duties, which was not spelled out in the charter, was to negotiate with ARCO on a number of environmental issues. One of the negotiations resulted in the agreement to treat and dispose of water from the Trevona mine for a particular price. Rick stated a mixed company, he did not want to go into the language that was used by both parties during those negotiations. The net result was approximately a two million dollar surplus that resulted from those negotiations. He thought whomever brought this up is close between turf battles and the duties of the Public Works Department. The

Public Works Department has the most money, the most equipment and has most to gain/lose. Rick believes the definition of what is supposed to be done is extremely important. Rick stated if you get into a situation where you are tearing that department apart, it is a real problem in administering that department.

Northey Tretheway asked if he thought the language that defines what Public Works does is best described in the charter or in ordinance?

Rick Foote replied that is a very difficult question. In this case, he thinks it should be left in charter. The only reason is it is the easiest reference. Rick stated, you start digging through all those ordinances and who knows what you will find. There could be anything in there and nobody fully knows what is in those ordinances. The Charter would be the simplest way to lay it out. The only thing he would suggest to be sure is to have discussions with John VanDaveer that duties of the department are fully explored. Rick stated he knows it is cumbersome and confusing but in the long run that would be the simplest way of doing that.

Cindi Shaw agrees with Rick Foote and one of the reasons they deleted the language in that section is because the charter is only brought to the public every 10 years and it is not easily amended such as the situation with the 1997 change of the WEDA Act. If something changes with state law, how does the charter change? It seemed at any given moment, due to a change in state law, the charter would be inaccurate. They thought if they had the charter be as simple as possible, they could avoid that. Cindi was not sure how they could address that and make it as accurate as possible.

Dave Palmer commented that he does not dispute Rick's comment that the definitions should be left in the charter but he does dispute his first comment about the council being able to change charter without the vote of people. Dave stated that is false. It has to be voted on by the people. The council can recommend it to the people to be voted on but they cannot change the charter without the vote of the people.

Rick Foote stood corrected and was under the understanding from his discussion with Bob McCarthy that the Council of Commissioners could amend the charter.

Northey Tretheway replied through initiative, you could put it on the ballot and change it.

**Slide 16.** Section 7.04 Land Records System-The proposed language added the language, "maintain" and eliminated the original language, "establish". Mary McMahon commented, as the Clerk and Recorder, she is interested in where the Land Records Office will be maintained. It is her concern that the critical inter-workings of the two departments such as the staff sharing. Mary commented that with it not being spelled out in the charter, she was wondering if it would continue to be under Clerk and Recorder's Office or as a free standing department.

Northey Tretheway replied, who would be best to answer that question on where it should be located?

Mary McMahon replied it should stay right where it is at.

Mike Kerns commented that is where they intended for the time they allowed the Land Records Office be established. It has worked well in that position and he does not know where else they would maintain it. Mike Kerns stated there would need to be a whole different budget authority for supplies and everything. He thought it was very functional and appropriate in the Clerk and Recorder's Office. Mike thought if they left the language "within the office of the Clerk and Recorder" in the charter, he did not see where it would affect or hurt anything.

Northey Tretheway asked Mike if it was in ordinance now? Mike replied it was. Northey asked if they left the proposed language and it passed, would they need to write a new ordinance for that?

Rob Macerioski, BSB Director of Land Records reminded them about the previous Study Commission's recommendations on the Land Records Office to be a stand-alone office. He feels he needs to be an advocate for his office. Rob stated as they all know, there is a lot of things that did not get done to have his office be where it was intended to be. He feels he is the best advocate in his office and though the Chief Executive can explain why the things are not getting done is why the positions in his office have not been filled when recommended by the prior Study Commission. He would like to think that the current Study Commission members have talked to the prior Study Commission members and have asked them those questions about his office and it being a stand-alone office originally. When he took over his office, he had to fight for the supervision of his people, he had to fight for his budget, he has had to fight for everything and he wanted them to know that he wishes his office was stand alone. Rob stated he has the opportunity to run his office and direct people the way he would like to. At this point, he feels he is encumbered the way things are. Rob explained that it is a very difficult position they have put him and Mary McMahon in. Rob stated they are working through this issue and it is a very difficult situation to be in debate with your boss about the advantages and that being pulled out from her. Rob stated that Mary has been very wonderful to work for however, he feels for the advancement of his office, he needs to be pulled out of that office and be under the Chief Executive to assure the things that were voted on by the people get done.

Northey Tretheway commented that leads to the point that he does not know what Rob Macieroski does precisely or what Mary McMahon does precisely. He is not sure if the public of BSB knows precisely what the two of them do. Northey commented to write in the charter that it stays in the Clerk and Recorder's Office would be presumptuous in thinking they know what the both of them do. Northey asked again who best would be able to answer that question? Northey stated he does not feel qualified to make the statement one way or the other.

Bob Worley commented that he visited with some of the people that are involved in that issue. Bob Worley stated that he spoke with Dannette Gleason about three weeks ago

and also Jon Sesso, Rob Macieroski and Mary McMahon that they were going to get together and hopefully come up with a solution on how to handle the Land Records and Clerk and Recorder's issues.

Dannette Gleason, Assistant Director of the BSB Finance and Budget Department commented that they did have a meeting and she is surprised that Rob is taking the stance that he is at the public hearing. Dannette stated that he had every opportunity in the meeting to them that and she did not hear what she is hearing from him now at the meeting. Dannette stated that he was comfortable where he is at...working with Jon Sesso...Dannette stated they had a two-hour discussion before on a full-set up of the Land Records Office. Dannette referred to Section 11.06, which states "the Chief Executive and the Council of Commissioners shall establish a Land Records System in the Clerk and Recorder's Office." Dannette Gleason commented working on the finance end of it, she sees the collaboration all the time. They share staff and office situations. Dannette's concern was where are the extra dollars going to come from to staff a separate department? Danette commented that the Land Record's Department being in the Clerk and Recorder's Office is working and Jon Sesso did not have a problem with it either. Dannette stated that it always seems a possibility that there might be a position that would need to be switched from the Treasure's to the Land Record's Department so there would be one additional person in the Land Record's Department. They did not hear from Rob that the Land Records Department should be a separate department. Dannette was under the understanding that it was working well from their meeting. Dannette stated the Land Records Department works well in the Clerk and Recorder's Office and it needs to be together for that budget to work.

Rob Macieroski replied that he would like the people to understand the difficult position he is in of being under his boss and having to ask people about his department. He did not feel that was the proper place to discuss that. He agrees that his office is very integrated with the Clerk and Recorder's Office. He has stepped forward and told Mary that and he would in shape or form change the way he runs his office. Rob further commented that you could ask the Assessor's Office and how tightly intertwined he is with them. It is the same situation. They could not move without some of the information Rob provides them. Rob mentioned it would be the same thing when the Treasurer's Office does the delinquent taxes for the year. He is tightly intertwined with Treasure's Office. Rob stated it is not just the Clerk and Recorder's Office that he is tightly intertwined with. Rob feels that he needs to be pulled out of that situation and be put under the Chief Executive.

Mary McMahon of the BSB Clerk and Recorder's Department, commented at the risk of getting into some issues that should not be discussed there tonight. Part of this is from some agreements made between them a couple of years ago that he has not fulfilled his end of. As a result of that, she believes in their discussions that he feels he stands a better chance with the current or future Chief Executive away from those agreements that they had mutually agreed to. Mary stated that they do work well together and she has never constrained Rob and he has had the management of the Land Records Office and she does not see that as changing. He knows a lot more about the land records and sales of

BSB properties than she but she believes it is the intricate working relationship that has gone on the last five years and has to continue.

Jean Rupert of the previous Study Commission commented that she did not know what was going on between them but the reason they set it up to be a separate department was because it was a complicated deal. There was land that was not on the taxpayer list. In addition, the GIS were being introduced and they thought it should be a separate department.

Tony Bonney stated they talked to other members and the direction he got from the previous Study Commission members was that was supposed to be set up as a separate department and that was the intent of the previous Study Commission. Tony stated that is why they addressed it. The people voted on it at that time for it to be carried out.

Bob Worley commented Section 11.06, Land Records System, did state the system was in the Clerk and Recorder's Office. Bob stated as a Study Commission they don't really want to micro-manage the government of BSB. Bob commented that he is with Northey in that he does not really understand the duties of the Land Records Office or the Clerk and Recorder's Office. Bob Worley could see in the Treasure's Office where Rob would be in charge of identifying delinquent properties in addition to the Assessor. Bob Worley would like to understand the flow of paperwork and where the problem lies.

Rob Macieroski stated there is no problem. Rob stated everything runs smoothly because they have good people working for them.

Mary McMahon replied that she does not think there is a problem either. Mary explained in answer to Bob Worley's question, the documents enter their office for recording. It is accepted at the front counter. It is stamped, as required by state law. It then goes to the Land Record's Office to review it and make sure it is correct and verify jurisdictions of the property. It then goes back to the front counter of the Clerk and Recorder's Office to process it. From that point, it goes to an indexing microfilming filing returning the document to the rightful owner, title company or bank.

Bob Worley asked if it would be more proper in the procedure if the person went to Land Records Department? Mary McMahon replied they could not by state law.

Rob Macieroski stated that he is not denying the steps that are happening. Rob stated that he is assuring everyone that he is not going to change the way he runs his office. He feels he has to have a true talk to the Chief Executive, the reasons why his office has not been filled the way it was intended to be and some of the reasons why modernization has not occurred. He feels he has to direct part of his researching to move forward with the modernization of the Land Records that was voted by the public.

Bob Worley asked Rob if he was short on pieces of equipment that would allow him to do that?



Rob replied there are a lot of pieces of equipment. It is not only the staffing but also the equipment.

**Slide 17.** Section 7.05 Finance and Budget-They add the proposed language, “maintain” and deleted the original language, “establish”.

Jeff Amerman, Director of BSB Finance and Budget Department suggested they add, for consistency, “in accordance with state law”.

**Slide 18.** Section 7.06 Personnel System- The proposed language stated, “The Council of Commissioners shall maintain by ordinance a City-County Human Resource System. This department will maintain, at a minimum, an employee evaluation and job training system. The Human Resource Director will report quarterly to the Council of Commissioners the success on meeting these requirements.”

Mary McMahon commented from a management standpoint, she thought it might just be her wrong interpretation, where it states, “This department will maintain, at a minimum, an employee evaluation and job training system.” Mary asked if the Human Resource Department would be responsible for training all departments?

Bob Worley replied their intention was through Human Resources, job training would get done at the department levels. Bob Worley commented the employee evaluation system goes back to what was being discussed earlier about “just cause”. Bob Worley commented they felt the employee evaluation system would be the best way to handle that situation.

Northey Tretheway commented it was more of a policy type discussion than it is an HR Department conducting the training and evaluations. They would set up the framework for conducting those types of activities. It would be a policy for BSB for them to have the training and evaluations in place.

Mike Kerns asked if he was assuming right that changing the name Personnel Department would become the Human Resource Department? It would not be an additional department?

Northey Tretheway replied that was correct. Northey stated that was requested by the head of the Personnel Department to change the name because those types of functions are under the current name of Human Resources.

**Slide 19.** Section 7.06 Human Resource Department-Proposed language, “All hiring and firing shall be done in accordance with written policies of the Human Resource Department and in accordance with state law.

Tim Rodgers asked if it should also state in accordance with state and federal law? Federal law allows for equal opportunity employment.

Northey Tretheway replied that he was probably right. Northey stated they would record that and check with the County Attorney to see if that should be added to that section.

**Slide 20.** Section 7.07 Animal Services-Proposed new language, “The Council of Commissioners shall establish by ordinance an Animal Services System, as a separate department, with a director in charge of confinement, enforcement and administration.

John Sorich, Council of Commissioner member asked what the benefit was of doing this?

Northey Tretheway asked if he was at the last public meeting and if he could recall what the number-one subject was? John Sorich replied that he knows what the number one subject is.

Northey Tretheway stated there was concern from the citizens that attended the last public hearing. There are people including the Study Commission that feel strongly about this subject.

Ristene Hall commented after last public hearing, 90% of the comments from citizens were regarding dog issues. They felt the community needs someone to call. The public needs one person to call to say they have a dog issue. That person deals with that dog issues and follows-up with the citizen filing the complaint. Currently, it is in Public Works, which is a very busy department. As far as the dog issues getting handled from start to finish, it does not happen. They felt one person that someone could complain to, that same person would oversee the shelter, confinement, enforcement and administration of the department. They felt this community is crying for something in that area.

Bud Tate, a concerned citizen stated that he has met with Chief Executive and got the same answer. Bud asked, with the proposed language in that section, how is it going to make any difference on what is done? Bud stated that there has been nothing done for twenty years and the situation is getting worse. Not just in reference to the dog feces that you walk in on the sidewalk but also the dogs barking and not being able to get sleep at night. He is disgusted with the dog situation.

Cindi Shaw stated they interviewed John VanDaveer, Dave and Grant. Both Dave and Grant admitted they were understaffed, over-worked and do the best they can. Cindi commented that Public Works is the biggest department and the dog issues get last priority. Cindi stated it is a people problem too and they have talked to judges. These judges also believe it is an issue and those areas are being addressed. Cindi discussed that there needs to be follow-up and accountability. The Study Commission thought putting it under one person and they contacted Paul Babb to see what his thought was. Paul Babb thought it was a great idea because John is busy in the Public Works Department. Cindi stated they discussed the fiscal issues involved with something like that and they decided between what the two dog wardens make, they could do something like that without the extra expense. Cindi commented people would feel better knowing they had a dog services department that took care of everything under one roof.

John Sorich was concerned that they are adding more management than what is needed and as far as the expense to the taxpayer, wouldn't it make more sense to have dogcatcher?

Dannette Gleason understands them trying to control the animal issues as she has children too that are out in the community. Dannette went along with John about the financial costs. Dannette stated in the past there was not have an Animal Control Manager. It has only been for a short time, two-three months that BSB has had an Animal Control Manager, Erin Wall. People do not need to call the Public Works Director or Sharon Crase at the Maintenance Center to report dog problems. People can now report all animal issues to Erin Wall. Erin does have staff underneath her. She reports to the Public Works Director, John VanDaveer. Dannette was not sure if they have given it a chance or opportunity to function with an Animal Control Manager without adding another director to animal management.

Cindi Shaw stated she did not know Erin Wall handled the calls and that she had a full-time assistant underneath her.

Tony Bonney stated that was exactly the reason they decided to do something with that section in the charter. Tony stated as administration and budget changes, the possibility that we have that animal shelter in BSB is not written in stone. In two, five or ten years, if they put in the charter that the people want something done and maintained. Tony stated no matter who the Chief Executive is or what the budget is, that will be done. He thinks that would address a lot of the problem because then it is in the charter and required to be done.

Dannette Gleason replied that she recalls hearing if it is in the charter it is more concrete and cannot be switched around as much. Dannette stated the council is going through processes right now updating the ordinances. There are ordinances out there right now that need to be changed right now because currently they will state that the Humane Society dictates what the rates are. All of that is currently going through the council. There will be ordinances on the books that are updated for our newly formed animal control manager.

Tony Bonney stated if the ordinance changes, the dogs are taking a ride again to Anaconda. The charter requires BSB to be the administration, confinement and enforcement. Ordinances can change at any time. If that building was to burn down tomorrow, they could pass an ordinance to say the dogs go back to Anaconda. If that is put in the charter, BSB would build another confinement area and would be responsible for it. It would not be taking temporary trips.

Dannette Gleason stated she has to go back to when they elect commissioners, they see the history of what happened and would handle the problems of animal control. Dannette understood what Tony was saying but from their standpoint in the Budget Office, they are looking at the additional costs of that director's salary.

Tony Bonney stated he understands that but he does not remember the last time he has seen a commissioner take a picnic down at a park but he can remember the last time he has seen a dog running through a park.

Dannette Gleason commented that she did not think they have given the new animal services a chance.

Bud Tate stated he has been in the courthouse reading the dog laws and there is not hardly any time that the dog laws...they can make all the dog ordinances in the world but they don't do the job and the Health Department should be included in the charter because he knows of two neighbors dealing with the dog feces in their yard. Nobody cleans it up or enforces the law. Bud referred to the problem of people owning four to seven dogs in their yard. No matter what is put in the charter, the same thing is going to happen. Bud also referred to the two dogcatchers who both work day shifts but end up working more weekend and night shifts. Bud stated that the dog situation is getting worse day-by-day. Bud could not understand making more ordinances when they don't enforce the law.

Bob Worley commented that is probably one of the reasons they brought the animal services department to the forefront. Bob mentioned Cindi bringing an article that was over 100 years old regarding the dog problems and there is still a problem today. It is a serious problem in BSB and that is why they have brought it to the forefront.

Jean Rupert asked why they could not implement Erin's position into the proposed director's position.

Bud Tate asked if they know what has to be done if he has a neighbor's dog barking and it is keeping him up night after night. Do they know what he has to do to get those dogs to stop barking? Bud replied that you have to send three registered letters, one to the County Attorney, one to the dogcatcher and one to the dog owner. You then have to wait 30 days and if nothing has been done, you have to send three registered letters again and then serve papers on them. It is really a tough process.

Bob Worley replied it might be a position for a Council Commissioner to strengthen that so it does not go that far. He agreed that there is some real issues out there.

Shag Miller discussed other communities, such as Missoula and what they spend on their animal control. Missoula spends half a million dollars on animal control. The City of Great Falls contracts their animal services. The City of Great Falls pays the Humane Society \$100,000.00 plus all the license fees to run the department.

Bud Tate stated one thing that is tough, when he read the dog laws and met with the Chief Executive they said they were going to give the dogcatchers tranquilizer guns and teach them how to use them to get the dogs. Bud's thought was why couldn't they use dog biscuits, that is considered entrapment according to the dog laws.

John Sorich commented other animal control departments within the state are under the Law Enforcement Department.

Rick Foote of the Butte Weekly suggested they put it on the ballot and see if the people really want to pay for it.

Jeff Amerman commented that it is good to see the Study Commission recognizes the importance of it and the fact of the added expense. With a director, there is an added expense of a higher salary in addition to the shared administration expenses within Public Works currently that would have to be replicated for animal services. Jeff further commented, in regard to Tony's comment, if you really want to say that is going to be established with a shelter or animal control center within BSB, it should state that because it does not state that in the proposed language. Jeff suggested that they may want to strengthen the wording. Jeff stated in this administration that was one of the first things Paul Babb took head on stating to bring the shelter not only back to BSB but within the county control. He recognized the importance of it as well and Jeff thinks it is a top issue.

John Sorich referred to discussion on defining what the Public Works Department does and what has to be defined with what Animal Control does. John suggested the charter state that there be no less...the minimum of three or minimum of two dog enforcement staff. John Sorich thought there needed to be more coordinates and define the number of animal control staff.

Bud Tate commented if they don't put the Community Health Department under it, nothing gets done. Bud Tate discussed the animals dying from disease and how the Health Department should be handling that.

Jean Rupert stated as a landlord there are no laws to back them up anymore. She has had places covered with dog feces, you call the Health Department and they can no longer go in because of privacy acts. Jean stated there are laws out there. They are just not being enforced. Jean commented that there is no "bite" behind the law.

Chris McMahon commented that he has been considering on purchasing a home in Butte and this is the main reason he has not done so yet. He has been looking at houses in Butte and there is not a single house that he has looked at that has not had dog running around in the streets. He agrees with Bud not only on the dog feces but also the children's well being. He thinks it should fall under the Health and Human Services Department.

Bob Worley replied that BSB has a leash law and he does see a lot of people walking their dogs with a leash. Bob Worley also mentioned dog parks that are fenced. Bob Worley mentioned the feces problem and how dog owners should carry a bag and clean it up.

There was public discussion on the large sign at Clark's park stating there are no dogs allowed and you will find dogs in the park or dogs urinating on the sign.

Mary McMahon stated St. James has the same problem.

Judy Kruzich, a member of the Animal Shelter Board, commented that she works with spay and neuter. She thinks the Animal Warden should be under the shelter. Judy thought they should all be working together as one. They should educate people on getting animals spayed and neutered. Judy commented if there are dogs running around at 6:30, should they consider changing the time the animal wardens are out there? She wondered if the people there were really doing what they should be doing to get that job done. They have never contacted anyone with Spay and Neuter where the problem areas are in this town to get animals fixed. She thinks it should be under the shelter where people could make one phone call and get all their services done at one place.

Jean Rupert stated it is also a financial problem due to her losing tenants because of the neighbor's dogs next to them. Jean stated there are ordinances but the police don't have time to deal with those problems. Everything you have to go through, the process, is ridiculous. They need to follow through on laws.

Bob Worley discussed the seriousness of the dog problem. He mentioned if BSB is going to get better and be a more livable community that is a problem that has to be addressed.

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Bob Worley commented that he is not a union breaker and believes in the union, but the dogcatchers are currently under the Teamster's Union contract and the contract is quite expensive. He is not trying to eliminate anyone's position but would like to see the Teamster contract go away in the dog department. Bob Worley commented the people that are now union employees with animal control would go to another portion of Public Works.

Tim Rodgers asked why the animal wardens are part of Teamsters? Tim asked if it was because they worked under Public Works?

Bob Worley replied it was negotiated in. Ron Rowling clarified that one is a Teamster and the other one is a Laborer.

Bud Tate heard the dogcatchers spend more time in court than out catching dogs.

Tony Bonney did not think it was an issue of keeping them as a Laborer or Teamster. He thought that issue was being addressed now because something has to be done. Tony suggested combining it in one department and keep it here in Butte.

Bud Tate asked if they could go to other cities and get an example of how they do it. Bob Worley replied that Shag Miller has already done that.

Shag Miller stated the Animal Control Officer in Bozeman has been there for 28 years. In Helena, they work under the Law Enforcement Department. Shag Miller discussed the having stronger enforcement of laws and the administration of fines, services and licensing that could be the source of funds for the Animal Services Department.

Bud Tate commented he had a burned down house and it took 22 years to get Health Department to tear it down. Bud stated he got 35 cats out of that building.

**Slide 21.** Section 7.08, Superfund Coordinator-Proposed language, “The Council of Commissioners shall establish by ordinance, a Superfund Coordinator with an Advisory Board, responsible for all monitoring of funding all Superfund activities, which BSB has responsibility per the Consent Decree resulting from the Superfund process.

Jeff Amerman asked if it would be a new hired position or would someone be appointed that is a current BSB employee or non-employee?

Northey Tretheway asked Jeff what he thought it should be.

Jeff Amerman thought it could be someone currently within the county. Jeff stated that Jon Sesso has something along that line right now, almost a Chief Negotiator. Jeff stated sitting in on meetings, Jon is very intrical on that and has a team put together. Jeff stated the idea of an official coordinator within the county would not be a bad idea at all. From the Finance and Budget end, they are curious if the commission envisioned that as a new position or director type position.

Bob Worley replied that they did and there was not a problem with it being an existing county employee. They would like to see an advisory board come from outside of local government employees. Such as the possibility of a person being an attorney, maybe an accountant or banker, maybe somebody from housing, a mining engineer, somebody that is in environmental engineering that would serve in an advisory capacity. They feel that would be helpful in serving a Superfund Coordinator. He thinks it is real effective if it comes from some place outside of government where they have a local advisory board outside local government that there is more to do. The public feels more involved.

Northey Tretheway commented some people feel this is the biggest issue facing BSB.

Bob Worley commented BSB has a lot of money coming down the pipeline in the next few years.

Northey Tretheway commented there are a lot of money coming in and a lot of Butte’s future involved in how things are going to shake out.

Rick Foote asked what Consent Decree are they talking about? What exactly do they mean by Consent Decree?

Northey Tretheway replied to his understanding there is a Consent Decree amongst the parties involved in the Superfund such as ARCO, the State of Montana and BSB. The Consent Decree would have to be signed before EPA goes forward.

Mike Kerns commented there has been a lot of discussion and none of it is right. Sitting on the Health Board and times at ARCO meetings, it has always been the consensus to have citizens advisory board exactly to the wording Northey used, an attorney, banker, accountant, businessman that would make recommendations but still would have to be agreed and voted on by the Council of Commissioners. You cannot have an appointed outside board having authority and spending county funds. It would be good in the sense that the community would have the opportunity through those people that are good business people within the community to have a place to go to if they have a concern about how the monies will be spent. The Consent Decree is probably two years away. There will be some agreements made in the near future and the money will come in. Maybe at the end of the fifty-year period, you will have seen that. It is coming in a lot smaller blocks than those numbers. The money is still coming in and only so much can be allocated per year. It is important that the citizens do have a say in it. Mike agreed a lot with what Jeff Amerman said. Jon Sesso is BSB's expert as far as local government and has been for the last ten years. If he had a dime for every EPA/ARCO meeting that he has attended, he could retire. He is very knowledgeable. Mike is not sure that there needs to be another position at the salary level because he thinks it would be extremely hard to find a person that has the knowledge that has led up to today's settlements amounts if Jon Sesso is not the person. Jon Sesso has a lot of knowledge of the ten years that it took to get to this point. Mike stated they are at the end of the run. It is not like they are doing something to change the process. The process has almost been completed right or wrong. He was not sure if they needed to hire someone over and above that. If they are going to look at something, that might be one of Jon Sesso's duties but again they are at the end of the rope. There is not a huge amount of time going to have to take place in that function. Mike thought Jon might need another person in his office at a much lower salary level so that he can assume those duties and the duties he is currently doing and still have someone with the loss of Mr. Connole. Mike commented that Jon would have a learning curve that would have to take place again. Mike suggested maybe two people could be brought in at a lower salary to do Russ Connole's position and have a back-up person might make more sense.

Tony Bonney commented that they agree with most everything he is saying. Their point on this is Superfund is going to be probably one of BSB's most important issues over the next 100 years. It is not their position to say who should be hired. That would be something the Council of Commissioners and Chief Executive would have to decide. They feel the Superfund issue is such an important issue to the community of Butte that it should be spelled out in the charter. The council and the Chief Executive could then handle things from there on.

Mike Kerns suggested the Superfund Coordinator be an appointed position with an Advisory Board of six or under.



Bob Worley replied that they have been discussing somewhere between 6 to 7 people.

Ristene Hall asked Mike Kerns if it would be unrealistic to have that position be voted in by the people?

Mike Kerns did not think so and did not think many people would run for it. He thinks there are good people out there. Mike did not think there would be many meetings held other than when the first amount of money comes. The money would then be stretched out for such a long period and you are always going to have to have an election on that. Mike gave as an example of three people passing away or deciding to get off the Advisory Board, you are going to have to wait for another election cycle to fill those positions. They would not be meeting on weekly or monthly basis. Mike thought after the very beginning of Superfund, it might be as long as six months or a year before they would go back in so there would be another pot of money to discuss. Mike stated it was going to be done on yearly basis and most of the work will have to take place in the Spring and Summer since there would not be a lot of reclamation work being done in the dead of winter. Mike suggested there be a way for those slots to be filled as people move away. Mike thought the Study Commission needed to have faith in the Chief Executive that is going to make that appointment and the council that is going to affirm that appointment. The right people for the community would always be on there.

Dannette Gleason commented it is stated in the agreements what terms that money would be used for. It is explicit in the negotiations on how that money will have to be disbursed. Dannette commented that it is not going to be so much of an issue as to how the money will be spent as to the compliance of those agreements. Dannette stated there would be a Trustee hired.

Northey Tretheway asked if there was a development fund?

Mike Kerns commented that was not completely discretionary spending.

Rick Foote of the Butte Weekly commented that he has gone over the Study Commission's suggestions carefully and he is familiar with charters. There has always been something that has bothered him. Rick wondered if the Study Commission has given thought at all to a statement of ethics or code of conduct to prevent conflicts of interest by individuals who are either paid county employees or appointed to boards/commissions. Over the years there has been questionable cases that bordered on whether they were legal or ethical and he thinks anytime you are talking about money perhaps a definition of conflict of interest or something along those lines might be an order to give whomever is the Chief Executive, whomever is on the Council of Commissioners and administrative functions of government. Rick suggested there be a guideline there is to watch for someone who seems to be exploiting the system. Rick stated there is some discretionary spending but as Dannette pointed out it is pretty much prescribed as to what that money can be spent on however, with human beings being what they are, he is curious if anyone gave thought to that code of conduct issue.

John Thompson, a concerned citizen, asked on the next issue, and stated once upon a time this city said let's pave streets and maintain them. Today we have a budget that is huge to do that. John asked with all three of the issues that they are looking at now, how much are these things going to cost and last? In their efforts to update the charter, are they creating huge expenses for the taxpayers ten years from now? He is concerned about the money that is being spent from the whole budget. In reviewing the proposed charter, it seems to him that there is a lot of create. He asked that they look at what all that will cost before making the final draft of the charter.

Northey Tretheway replied his point is very valid. Northey explained that what he is seeing there is an offshoot of what concerns have been expressed in the community. One thing the Study Commission does not want to do is burden the county with greater costs than what the benefits that might be realized from that. It is a balancing act and they need to make sure the public is aware of what the costs would be and to know the benefits that would arise against those costs. They would make sure the public had sufficient information in order to make a decision.

John Thompson commented years ago it was explained to him that the State of Montana, Department of Revenue, Liquor Control Board, at that time, which was 20 years ago, was the only real government entity in the State of Montana that made money because of the taxation on liquor. The general fund and citizens of Butte benefited from that. His point was to let the dog owners take care of the dog problem. He has two dogs and if they want to have these dogs, they should be the ones paying for them. He does not expect someone who does not own a dog to have to foot the bill for a whole new department. They need to balance the need with the concerns of the citizen's pocketbook.

Northey commented when they think of some of those issues and you say let this person or that person manage his/her dog that is fine. However, if that problem is not rectified, what does that cost Butte in the long run? There was a person in the audience who was considering on moving to Butte and Northey was not sure if that would be a decisive issue for him to move here.

John Thompson commented, in regard to the dog problem, he knows a lot of people in Helena and they have the same complaints as Butte. He thinks there has to be someone smart enough to say if a person has a dog and he/she does not take care of it, BSB will pick the dog up and something will be done about it. John stated he does not have a solution himself, his only point is when it comes to animals it is a real problem in Helena, Bozeman, Missoula and Butte. His question is in regard to the last three issues, in the long run what is it going to cost?

Jean Rupert asked if they were going to present the costs in the paper when they get ready to vote? Without the costs, the people do not have a complete picture.

Bob Worley stated they would take a look at it. Bob commented he is as fiscally responsible as anybody he knows. He is trying to watch the taxpayer's dollars just as

closely and they feel when they do present the charter, it will be done in a manner that is fiscally responsible and that the benefits will outweigh the costs.

Northey Tretheway commented again that the language is not finished or gone through fully and they are presenting the proposed language as a conceptual device. They want to make sure those concepts and issues are addressed. Eventually, they will work on the balancing act.

Bob Worley commented they are presenting proposals and it is one reason they decided not to go to ballot in the primary. They did not feel they were ready.

Lori Maloney commented if they are looking to establish those departments and department heads to put in there that they should be elected and you are going to be guaranteed a savings on their salaries since elected officials average \$15,000 less than any other appointed department head.

Jean Rupert agrees with her but stated an elected official is only changed through the vote of the public and if they do something wrong, the only way you could do it is through a vote.

Bob Worley replied on contracts.

**Slide 22.** Section 7.09 Community Enrichment Coordinator-Proposed language, “The Council of Commissioners shall establish by ordinance, a full-time Community Enrichment Coordinator.

Jeff Amerman asked how the commission envisioned that to be funded? Would it be a new position or within BSB? Jeff stated that currently Dan Dennehy fills what he thinks they are envisioning a Community Enrichment Coordinator to do. Jeff further commented probably not as expansive as they would like but close to what they would envision because he is head of the Health Department and has a lot of responsibilities. He believes with a position such as Community Enrichment Coordinator, one of the considerations is that it is like the Superfund Coordinator. You would have a whole team of people that have come together from a variety of departments, if there was a separate head, they would be supervising staff that were in other departments. Jeff suggested they take into consideration not only the expense but how they would put that together.

Dave Palmer replied this is one of the most important issues that they could come up with in the whole charter if they are going to move Butte forward. Dave stated if you attend any committee meeting or one of these groups decide what does Butte need the most. They decide to clean up the city and move Butte forward. The only way that is going to get done is to come up with one coordinator who works full-time. Dave stated the way it works right now, Dan Dennehy does a fine job but he works full-time as the Director of the BSB Health Department. Dave stated that he does not have time to the Community Enrichment Coordinator position on a full-time basis. Dave stated we have one of the best ordinances around to handle this and this would handle 2/3<sup>rd</sup>'s of the dog problem

under that. That person would coordinate and would be the one going out cleaning up Butte. Dave feels without that position Butte would be going nowhere. It would be going backwards. Dave thought when they look at the funding of these positions, they need to look at the whole picture. Right now BSB is spending an excess of 100,000.00 on animal control and we are not getting one thing done. In order to fix that problem, they have to step forward and change it from the way it is right now. Having a Community Enrichment Coordinator would be one of the best steps BSB could make in going forward. As long as you get a good person to do the job, and have the position under the Chief Executive, the job will get done.

Jeff Amerman replied that he agrees completely with Dave. Jeff stated, being a part of Community Enrichment Board, he has seen just from pulling together the groups part-time, they have made great strides just in the last year. Jeff would agree it is a very important position and concept. It is a concept that this administration is committed towards, to make Butte one of the most livable communities in the state. Jeff thanked Study Commission for their time.

Mike Kerns commented one thing he would like people to think about in regard to the dog problem is BSB has a new facility. It will only hold so many animals and if the community wants five times the number of animals picked up, we, as a community, better find out where we want to go with the lives of those animals that we confine. Mike stated every one can complain about there being feces on the ground and he is not advocating putting every animal to sleep but if you bring in 600 dogs you had better have a plan over and above a coordinators and dog catchers as to what you are going to do with those 600 animals. Anaconda's shelter got full and we filled Dillon's shelter. They are all still full. Mike stated as we move forward, we have got to decide if we are going to build a new facility and raise animals that cannot be sent out to the general public for their natural life or whatever it might be. We have to address the end result after we pick all those animals up.

Northey Tretheway asked Mike if the council could address some of those issues on what should ultimately be done with those animals?

Mike Kerns commented if they have someone advocate the no-kill policy, and he is not advocating that all those animals be killed, but if they are not going to do it and there are not the adoptions in place, it won't take very long to get 500 dogs. Mike asked after you get them, what are you going to do with them?

Tony Bonney thought that would be addressed by the Council of Commissioners through an ordinance or policy that be enforced in BSB.

Mike Kerns made a comment that the only way to get a good public hearing is to turn it into a dog issue. It is a people problem, not a dog problem. Mike again stated what do they do with the animals once they confine them? He did not have the answer.

Jean commented maybe something would be done when a lawsuit comes because of a child getting injured by a dog.

Bob Worley commented that BSB currently has a limited no-kill policy.

Ristene Hall suggested there needs to be more enforcement of fines to help pay for the dog problem. Ristene suggested if a dog owner does not take care of his/her dog and they get a fine. That person chooses not to pay the fine. Ristene thought it could the fine could be attached to his/her property taxes in order to get the fine paid.

Mike Kerns commented the consensus of destroying animals is a very divided consensus and it is not as simple as it sounds.

Mike Kerns stated fines would not work. They just voted with the police judge on criminal actions of fines and are hiring a collection agency to try and get those paid. There is not enough room in jail for misdemeanors for the 1800 people that won't pay the fine.

Dannette Gleason commented state law does not allow attachment of taxes to real property. You can attach personal property.

Rick Foote commented prior to the no-kill policy, they were destroying 192 dogs a month. The people don't want the dogs killed. The main leader, the one who raised the issue, does not even live here. Rick believed the spay and neuter clinics have a positive impact. Rick asked the same question as Mike, once you get the dogs, what are you going to do with them?

**Slide 23.** Section 9.02 Council of Commissioners Districts-Proposed to delete all of the language in Section 9.02. Northey explained the language was redundant and explained back in Section 3.02 (a).

**Slide 24.** Section 9.03 Reapportionment of Council of Commissioners Districts-Proposed to delete all of the language in Section 9.03. Northey explained this was taken out of the charter because it is governed by state law.

**Slide 25.** Section 9.04 Redistricting-Proposed to delete all the language in Section 9.04.

**Slide 26.** Section 10.01 Amendment of Charter-Proposed language, added "in accordance with" and deleted, "as prescribed by"

**Slide 27.** Section 10.03-Proposed language, added "Severability" and deleted "Separability."

**Slide 28.** Section 10.06 Register of Ordinances, Annual Publication of Uniform Municipal Code and Administrative Code-Proposed language, added "Human Resource Department".

Jean Rupert commented to show lack of follow-up, there has been no procurement or central purchasing and it was stated in charter ten years ago.

Mike Kerns asked if it was passed?

Northey Tretheway replied yes.

Bob Worley mentioned the Administrative Code in 1997 that he believed Mike Kerns signed.

Mike Kerns replied maybe they should call Jack Lynch, Judy Jacobsen and Paul Babb and ask them, as the executive branch, why they have not started it. Mike stated they, the Council of Commissioners ordered it.

Mike Kerns stated in central procurement other than paper, pencils, etc. where don't they follow it? Mike stated anything over a certain amount they have to bid on.

Dannette Gleason stated there is a system of central purchasing as it relates to computers.

End of Tape 2, side 1

Northey Tretheway commented central procurement and purchasing was in the charter 10 years ago and passed. Northey asked Dannette Gleason if she was saying by law you cannot say to an elected official that you could limit them from purchasing a computer because it is part of BSB's budget? Dannette replied they give them the budget. Northey asked if they could get a better deal through central purchasing, not just computers but other equipment/supplies, was she stating by law you could not preclude them?

Dannette Gleason replied they do. Dannette mentioned the government pricing they have through Dell to purchase computers. There is not a true procurement central purchasing system. They do not have a department, they do not have the staff and so forth. Dannette commented one problem is if they do central purchasing and procurement, they would not be able purchase everything locally.

Northey Tretheway asked if it would be cost efficient to do that? Northey commented he did not know in government but he knows in business, central purchasing is an efficient way of taking buddy, buddy out of the issue. Northey commented that he was not sure why he even had to argue it since it was in the charter.

Dannette Gleason commented part of the reason it was not being done is because they don't have the people to do it.

Northey Tretheway asked if they were breaking the law by not enforcing it?

Jean Rupert commented it was voted on and passed.

Northey Tretheway commented he would need to look back and see when the Administrative Code was written..

Jean asked who follows up on it if the Chief Executive does not do anything?

Mike Kerns commented they are not responsible for hiring people. The Chief Executive is the one that would do the hiring. It is the Chief Executive that would have had to create that position and bring it forward to the council for approval.

Northey Tretheway commented that does not answer Jean's question on who would follow-up on it if the Chief Executive did not do anything.

Dave Palmer commented that brings up the same question, if the people vote for the appointment of a Superfund Coordinator and nothing is done. What does that mean?

Northey Tretheway replied it opens doors for a lawsuit.

Mary McMahon stated the charter also called for her department to have 6 deputies and she does not have them. She was corrected that it was in an ordinance.

Jean Rupert commented the citizens of BSB don't trust government because they don't do what the people vote on.

Mike Kerns commented that maybe it has not been followed to the extent of its full degree. He would say the provision in local government, their law requires an expenditure of \$5000.00 or more, and you have to have three written quotes prior to buying anything.

Jean Rupert replied their laws are this law.

Northey Tretheway commented by it's design, it could not be that detailed so whatever they wrote in the Administrative Code, maybe that is what they are following.

Jeff Amerman commented one of the reasons why is that it was never costed out and nobody is sure if it will save money or not. A lot of times they are thinking about pens, pencils, paper, computers, etc. Jeff asked if central purchasing was going to order the asphalt, pipes, chlorine and chemicals. Where do they stop on that? That would need to be costed out. You would need people with engineering backgrounds. It could get expensive and it was never costed out. They do not know if it would save money although it probably would with bulk purchasing. They could purchase a lot of items over the Internet that would lock out the local vendors. That would be a huge problem.

Mary McMahon explained that they are provided with an annual budget and are accountable for those budgets. They receive a monthly detailed budget and expenditure report that shows what they have spent and what is left in the budget. If they see an area

where they have gone over, they are responsible for budget transfers, which have to be approved by the Finance and Budget Department and the council.

Northey Tretheway commented it could not be that detailed in what it is asking for and is open to a matter of interpretation. It is not detailed sufficiently and he did not think it should be. It should allow flexibility in government to do what is most efficient. He commented that the charter is supposed to be a guiding document.

Ristene Hall remembers more comments being made on how much was actually spent in each department on office supplies. It was a noticeably large amount of money, enough that there were comments that there was enough money to hire someone to maintain all the copy machines. Ristene requested they provide them with the information on costs of maintenance agreements and weekly expenditures on office supplies.

Bob Worley commented that it allows the county to be more fiscally responsible.

**Slide 29.** Section 10.07 Employment Policy-Proposed to eliminate all of the language in Section 10.07.

Mike Kerns took the opportunity to thank the Study Commission for their time.

Tony Bonney motioned to adjourn and Cindi Shaw seconded. The meeting adjourned at approximately 10:15 p.m.